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PERSPECTIVE

## CULTURALLY SPEAKING

## Cultural Divorce, Part XIII: Majority, maturity and marriage



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By Abbas Hadjian

“Majority” is a term of art. It changes meaning in historical and geographical horizons. It has different meanings and attributes in different cultures and jurisdictions. It *currently* applies to males and females over 18 in *California*. Contrary to the globalization of communication, education, and trade, there is no universal definition or acceptance of “Majority.” Different jurisdictions apply it to different age groups for different purposes. I italicized *currently* to relay that the designation is subject to time change. I also italicized *California* to assert the geographical limitation. So, in listing and treating the “Minor” child in family disputes, relying on eighteen (18) years of age may be *California* correct but globally wrong.

### Historical Perspective

The “Majority” entered the California legal vernacular in the 4th year of the Statehood, April 1854. The California Statutes, Chapter 39, was an *Act for fixing the age of the majority of males and females in this state: males twenty-one years and females eighteen*. The purpose was to allow making contracts, convey real estate, and do “*all other acts and things that persons of full age may legally do.*” But this designation caused problems. Mainly for the sale of real property belonging to married women under 18. And the legislator had to approve the under-aged Jane (Wife), joining adult John (Husband) in selling a property. This resulted in an amendment to the Statute in 1858 acknowledging “*...females shall be deemed of full and legal age, ... at any age under eighteen, when... lawfully married.*” The California Civil Code reflected the same when

promulgated in 1872, in Section 25, 21 years of age for males and 18 for females. Also, Section 28 allowed adulthood for both sexes upon marriage. In 1927, the gender differences for the Majority (21/18) were corrected and the “Minors” were limited to unmarried persons under twenty-one years of age. In 1972, the law again changed to the current state of adulthood at 18.

### American Perspective

Federally Minor child means an individual who has “not attained 18 years of age” or “attained 19 years of age and is a full-time student in a secondary school or the equivalent level of vocational or technical training” (USC, T42, S619). Many states, in addition to California, follow this designation, but few don’t, including Alabama (19), Maryland, Mississippi, and Nebraska (21). Both the Federal and the State Codes have exceptions eclipsing the rule. For example, in California, minors will have criminal responsibility at the age of twelve (12), right to seek emancipation at fourteen (14), getting a driver’s permit at fifteen (15), prosecution as an adult at sixteen (16), and joining domestic partnership at seventeen (17). Also, some privileges must wait. Alcohol, cannabis, cigarettes, handguns, and tobacco can be purchased at twenty-one (21). UGMA and UTMA may be terminated at twenty-five (25).

### Islamic Perspective

The Table attached provides an overview of the age of majority in 15 Islamic countries in 4 conti-

nents. It shows a difference in the age of the majority between 7-21, depending on the religious subclass and beliefs. It applies mainly to the religious *Maturity* rather than the civil *Majority*. You become a Mature for gender separation at seven (7) and to become a married woman at nine (9). But you remain Minor in obedience to your father until self-sufficiency (boys) or first marriage (girls). Two points to re-

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member. 1) The limitations apply to the Muslim population of the countries listed. The non-Muslims are usually allowed to follow their religious tenets. 2) The religious designations do not reflect the practical standards. For example, the Iranian Civil Code Article 1210 recognizes the majority at ages nine (9) and fifteen (15) [lunar years] for boys and girls. This is for making a contract or managing one's own property. Article 1041 raises the majority age for marriage to thirteen (13) and fifteen (15) [solar years] for males and females. Yet culturally, the age of consent to marriage in Iran today for both genders is mid-twenties and graduation from university.

### Global Perspective

The following age categories reflect differences in the age of majority in the global setting.

#### Age of Criminal Recognition:

This is the youngest age when a minor is prosecuted as an adult. In four (4) jurisdictions (Brazil, Luxembourg, Peru and Uruguay) the age of criminal recognition and majority are the same eighteen (18). In twenty-four (24) countries, the age of majority is age seven (7), in the majority jurisdictions (53) is age fourteen (14).

**Age of Civil Majority:** This is the age when a minor is treated as an adult for doing business, being employed, making a contract, being a juror, and buying-selling-managing and owning property. Among 200 countries, 130 jurisdictions apply to the age of eighteen (18). Indonesia, Iran, and Yemen (under the Sharia influence), consider fifteen (15). Nearly 10% of jurisdictions have it above nineteen (19).

**Age of Marriage:** This is worldwide above the "Age of Criminal Recognition" and below the "Age

Country	Sect/School	Age of Transfer <sup>1</sup>		Age of Discretion <sup>2</sup>		Age of Maturity <sup>3</sup>		Age of Marriage <sup>4</sup>	
		Boy	Girl	Boy	Girl	Boy	Girl	Boy	Girl
<u>Afghanistan</u>	Sunni/Hanbali	7	9	N/A	N/A	18	18	18	16
<u>Azerbaijan</u>	Shi'a/Ja'fari	N/A	N/A	BIC	BIC	21	21	18	18
<u>Bangladesh</u>	Sunni/Hanifi	N/A	N/A	7	9	18	18	21	18
<u>Egypt</u>	Sunni/Hanifi	N/A	N/A	15	15	15	15	18	18
<u>Indonesia</u>	Sunni/Shafi'i	N/A	N/A	12	12	18	18	19	16
<u>Iran</u>	Shi'a/Ja'fari	7	7	N/A	N/A	15	9	15	13
<u>Iraq</u>	Shi'a/Ja'fari	N/A	N/A	10	10	15	15	18	18
<u>Jordan</u>	Sunni/Shafi'i	N/A	N/A	15	15	18	18	16	15
<u>Morocco</u>	Sunni/Maliki	N/A	N/A	15	15	18	15	18	18
<u>Nigeria</u>	Sunni/Maliki	N/A	N/A	7	9	15	9	15/21	12/18
<u>Pakistan</u>	Sunni/Hanifi	N/A	N/A	7	9	18	18	18	16
<u>Qatar</u>	Sunni/Hanbali	N/A	N/A	11	13	18	18	18	16
<u>Sudan</u>	Sunni/Maliki	N/A	N/A	7	9	18	18	PUB	PUB
<u>Saudi Arabia</u>	Sunni/Hanbali	N/A	N/A	7	7	18	18	18	18
<u>Turkey</u>	Sunni/Hanifi	N/A	N/A	BIC	BIC	18	18	17	17

Notes: "BIC" indicates the best interest of the child. "PUB" indicates puberty.

<sup>1</sup> The age at which the custody right of the mother transfers to the father.

<sup>2</sup> The age at which the child's custody may be transferred from one parent to another or a qualified third party, based on the discretion of the child and the court.

<sup>3</sup> The age at which children are recognized as adults.

<sup>4</sup> The age at which children may marry without a court order. In many jurisdictions, the age of marriage may be reduced by a year or two. Regardless of age, females cannot get married without the consent of a guardian, usually the father or other paternal next of kin.

of Civil Majority." In about 20% of the jurisdictions (40 countries), the female age of marriage is younger than males. Also, the age of marriage may be reduced by two (2) years or more with the consent of a parent or an order of a court. Currently, in 160 countries, in 80% of the jurisdictions, eighteen (18) is the age of marriage, and fourteen (14) to sixteen (16) is the age of sexual consent.

### Conclusion

In litigating "Majority," the California age of eighteen (18) is not the only absolute or final threshold. Children born and naturalized out of non-California marriages are subject to the rights and obligations under the public policies of their Home State. This legal duality will impact the outcome of a California divorce, which is unacceptable or enforceable in other ju-

risdictions. In handling the status of a "Minor Child" in California, exploring the alternatives to eighteen (18) is a professional responsibility before advising the clients or the court.

*Culturally Speaking* provides a step-by-step blueprint for more tolerable and lasting cultural divorces. It benefits partially from more than five decades of studies by its author in two legal systems.

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